

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

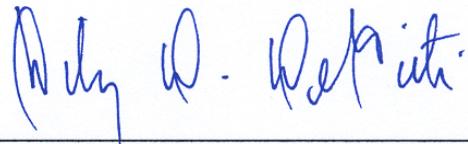
RODNEY B. THOMAS,)
)
Plaintiff,)
)
v.) Case No. CIV-09-536-D
)
FEDERAL TRANSFER CENTER, *et al.*,)
)
Defendants.)

ORDER OF DISMISSAL

Before the Court is the Report and Recommendation issued by United States Magistrate Judge Bana Roberts pursuant to 28 U.S.C. § 636(b)(1)(B) and (C). Judge Roberts recommends a dismissal of the case without prejudice due to Plaintiff's failure to pay an initial partial filing fee that was due July 2, 2009. Plaintiff has neither filed a timely objection to the Report nor requested additional time to object. Therefore, Plaintiff has waived further review of the Report.¹

IT IS THEREFORE ORDERED that the Report and Recommendation [Doc. No. 9] is adopted in its entirety. The case is DISMISSED WITHOUT PREJUDICE to refiling.

Entered this 31st day of July, 2009.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE

¹ On July 23, 2009, a copy of the Report mailed to Plaintiff at his address of record was returned as undeliverable. However, the Court finds this circumstance does not warrant an exception to the court of appeals' "firm waiver rule" because Plaintiff was responsible for giving notice of a change of address. See *Theede v. United States Dep't of Labor*, 172 F.3d 1262, 1267-68 (10th Cir. 1999) (*pro se* plaintiff who failed to provide a change of address or address correction waived right to review by failing to make a timely objection); see also W.D. Okla. R. LCvR5.4(a) (requiring written notice of a change of address).